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Right to food

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the interim report of the Special Rapporteur on the right to food, Hilal Elver, submitted pursuant to Assembly resolution 72/173.

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Interim report of the Special Rapporteur on the right to food

I. Introduction

A. Recognizing the right to food of agricultural workers

1. Agricultural workers play a critical role in achieving food security and fulfilling the universal human right to adequate food. They are, however, among the most food insecure, facing formidable barriers to the realization of their right to food, often working without labour and employment protections and under dangerous conditions. Despite this vulnerability to food insecurity and human rights violations, the right to food of agricultural workers has not been sufficiently addressed.

2. International human rights law recognizes the interdependence among the rights to decent work, adequate living conditions, social protections and the right to food, as outlined in article 25 of the Universal Declaration of Human Rights and article 11 of the International Covenant on Economic, Social, and Cultural Rights. The present report is aimed at protecting and promoting the right to food of agricultural workers by identifying barriers to the realization of that right and making concrete recommendations to States and relevant stakeholders.

3. Agricultural workers comprise approximately one third of the world's workforce, or 1.3 billion people.[1] Currently, 70 per cent of workers in developed countries are employed in agriculture, compared with only 16 per cent in upper-middle-income countries.[2] Many workers are employed either informally (for example, without a contractual agreement to guarantee a fair wage, safe working conditions, available remedies, etc.) or, as in the case of family members, without any financial compensation. The number of jobs in agriculture is steadily declining owing to mechanization, modernization and the impact of globalization on food systems, yet the uncertain nature of agricultural work and financial instability of workers require increased attention.

4. The present report addresses the rights of agricultural workers on a global scale. The definition of agricultural worker used in the report is "any person hired to work in agriculture regardless of their contract type or payment arrangement". This definition encompasses workers in plantations, greenhouses, crop fields, orchards, packing houses, slaughterhouses and livestock facilities. The definition includes workers who respond to fluctuating labour demands, not necessarily in line with natural seasons, and men, women and children who support family members working in agriculture.[3] A separate report scheduled for presentation to the Human Rights Council in March 2019 will focus on the distinctive challenges to realizing the right to food of workers in the fishing industry.

5. In the report, particular attention is drawn to the dangerous working conditions inherent in the agricultural sector, which not only threaten the lives of agricultural workers, but also undermine their right to food. The agricultural sector is among the most dangerous industries owing to regular exposure to pesticides and to long hours spent in extreme temperatures without adequate access to water (see A/HRC/34/48). The majority of agricultural workers are excluded from national legal protective frameworks, leaving them unable to exercise their fundamental rights to associate or

[1] International Labour Organization (ILO), "Agriculture: a dangerous work", available at www.ilo.org/safework/areasofwork/hazardous-work/WCMS_110188/lang--en/index.htm.

[2] ILO, *World Employment and Social Outlook: Trends 2018* (Geneva, 2018).

[3] Lydia Medland, "Misconceiving 'seasons' in global food systems: the case of the EU seasonal workers directive", *European Law Journal*, vol. 23, Nos. 3–4 (October 2017).

assemble and without access to remedies.[4] The report takes a comprehensive look at these challenges that undermine the ability of agricultural workers to realize the right to food.

6. The realization of the right to adequate food of agricultural workers who are faced with precarious and vulnerable conditions requires urgent actions by States in the fulfilment of their human rights obligations. The report outlines the obligations of States to respect, protect and fulfil the human rights of agricultural workers, including the rights to a living wage, decent and safe working conditions and peaceful assembly and association. It also explores the role of the State in regulating the private sector, as well as the role of businesses and consumers in promoting the rights of supply chain workers. Lastly, the report provides a set of recommendations to States and other stakeholders on how to improve the human rights situation of agricultural workers, with a focus on their right to food in a rapidly changing global food system.

B. Changing the global food system and its impacts on agricultural workers

7. Food systems encompass the environment, people, inputs, processes, infrastructures, institutions, laws, policies and activities that relate to the production, processing, distribution and transportation, preparation, consumption and disposal of food, and the outputs of those activities, including socioeconomic and environmental outcomes.[5] As stated in an earlier report of the Special Rapporteur, the industrial food system currently dominates the world and focuses on increasing food production and maximizing efficiency at the lowest possible economic cost. (A/71/282, para. 22). This system often prioritizes cost-saving initiatives and economic outputs at the expense of agricultural workers.[6] As a result, agricultural workers are increasingly faced with low wages, part-time work, informality, dangerous working conditions and a lack of social and economic protections.

8. As part of the new global food system, global supply chains have surged tremendously in recent decades, fuelling 80 per cent of world trade and 60 per cent of global production. Agricultural supply chains encompass a system of activities, organizations, actors, technology, information, resources and services involved in agrifood production for consumer markets.[7] These chains include upstream and downstream sectors, starting with the supply of agricultural inputs (such as seeds, fertilizers, pesticides, feeds, medicines or equipment) to production, post-harvest handling, processing, transportation, marketing, distribution and retailing.[8]

9. Global supply chains are funded largely by foreign direct investment from multinational enterprises in wholly owned subsidiaries or in joint ventures in which the enterprises, in principle, have direct responsibility for the employment relationship.[9] In addition to multinational enterprises, and local parent companies and their affiliates, supply chains feature a wide range of enterprises, including smallholders, farmers' organizations, State-owned enterprises and funds, private

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[4] ILO, *Giving a Voice to Rural Workers*, ILC.104/III/1B (Geneva, 2015).

[5] High-Level Panel of Experts on Food Security and Nutrition, *Nutrition and Food Systems: A Report by the High-Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security* (Rome, 2017), p. 11.

[6] Tim Lang and Michael Heasman, *Food Wars: The Global Battle for Mouths, Minds and Markets* (New York, Taylor and Francis, 2004).

[7] ILO, *Decent Work in Global Supply Chains*, ILC.105/IV (Geneva, 2015).

[8] Organization for Economic Cooperation and Development (OECD) and Food and Agriculture Organization of the United Nations (FAO), *OECD-FAO Guidance for Responsible Agricultural Supply Chains* (Paris, 2016).

[9] ILO, Decent Work in Global Supply Chains.

financial actors and private foundations. It is important to recall the implementation of the principles for responsible investment in agriculture and food systems, which favour employment generation and foster decent work.[10]

10. Global supply chains offer an important source of employment: the International Labour Organization (ILO) estimates that the number of jobs in global supply chains, including in agriculture, increased from 295 million in 1995 to 453 million in 2013.[11] Yet, they are often criticized for enabling slavery-like conditions for workers. Within supply chains, corporations can avoid accountability for violations of workers' rights resulting from the actions of those extraterritorial suppliers that are only contractually related to corporations.[12] This poses a real threat to workers, as nearly half of the world's largest companies directly employ only 6 per cent of their supply chain workers; the remaining 94 per cent of labourers are considered to be part of the hidden workforce of global production without clear employment contracts and without well-defined rights or protections.[13]

II. Barriers to achieving the right to food for agricultural workers

A. Right to a living wage

11. The realization of the right to food of workers requires the guarantee of a living wage, understood as a fundamental right for workers to afford their basic needs and those of their family, namely, food, clothing, housing, education and health care. It also requires the elimination of poverty and the removal of its root causes, as well as the improvement of other working and living conditions.

1. Wages and contracts

12. Agricultural wages are generally low and paid late and are not periodically adjusted. Practices such as debt bondage based on wage advances and excessive charges for services in worksites further decrease workers' earnings. Many agricultural workers and their families live in geographically isolated rural areas owing to the location of their workplace. As such, workers become dependent on employers to provide adequate wages sufficient to support the food security and nutrition of their families and to provide access to housing, schools, medical facilities and transportation.

13. In rural areas of disadvantaged developing countries, nearly 8 out of 10 working poor earn less than $1.25 per day.[14] Agricultural workers in Zambia, for example, work for less than $2 a day on third-party farms. The dependence on farm owners for work opportunities perpetuates generational cycles of poverty (A/HRC/37/61/Add.1, para. 106). Studies of agricultural workers in El Ejido, southern Spain, indicate that

[10] Committee on World Food Security, "Principles for responsible investment in agriculture and food systems", 2014.

[11] ILO, *World Employment and Social Outlook 2015: The Changing Nature of Jobs* (Geneva, 2015).

[12] Tomaso Ferrando, "About capitalism and private international law", in Horatia Muir Watt and others, eds., *Adjudication Without Frontiers: The Global Turn in Private International Law* (Aldershot, United Kingdom of Great Britain and Northern Ireland, Edward Edgar Publishing, 2018), pp. 229–235.

[13] International Trade Union Federation, "Scandal: inside the global supply chains of 50 top companies", 2016.

[14] Sisay Yeshanew, *Assessment of International Labour Standards that Apply to Rural Employment*, FAO Legal Papers, No. 100 (Rome, FAO, 2016), p. 1.

workers who migrate to semi-urban areas in search of waged employment must rely on low wages similar to workers in rural settings.[15]

14. While ILO promotes minimum wages to protect workers from exploitation, workers without well-defined contracts lack minimum protections and mechanisms for resolving disputes if employers violate minimum wage agreements. These workers also lack a fiduciary relationship with or do not even know the identity of employers. A study in Guatemala, for example, showed that 55 per cent of the agricultural workers interviewed did not know the name of their employer.[16]

15. Even with a State-endorsed minimum wage, States have not adopted and enforced uniform wage standards across sectors that are sufficient to guarantee a living wage for workers.[17] Studies from Australia, Canada, the United Kingdom of Great Britain and Northern Ireland and the United States of America indicate that national Governments regularly fail to effectively and consistently address violations of the minimum wage.[18] In Brazil, 43 per cent of the nation's cases of modern slavery involve agricultural work and in Morocco, the minimum agricultural wage is less effective in protecting workers than it is for other sectors.[19]

2. Working hours and quotas

16. Agricultural workers work long, unrestricted hours and the intensity of their labour allows for few, if any, opportunities for rest. During times of planting and harvesting, field work may last from early morning until late at night, further inhibiting workers from gaining access to social and health-care services available only during working hours.[20]

17. Workers are often "paid by piece", namely, payment depends on the number of buckets or bags harvested, and they must meet quotas unilaterally imposed by employers in order to earn a decent wage. As quotas generally exceed the capacity of work reasonably performed in a day, workers work continuously and avoid taking food and water breaks. Further, without a set salary, workers are not ensured a living wage and therefore are not guaranteed the right to adequate living standards or to adequate food. Lastly, quota-based wages incentivize exploitative conditions for workers and their family members, often women and children. In order to meet quotas within the specified time frame and maximize income, workers are likely to extend their hours, and unpaid family members might be used to supplement their efforts.[21] Such contributions are common on palm oil and coffee plantations, where a "free"

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[15] Medland, "Misconceiving seasons in global food systems".

[16] See www.albedrio.org/htm/otrosdocs/comunicados/InformeGrupoAnalisisTrabajoAgricola2014.pdf, input received in response to the call for submissions.

[17] Peter Hurst, Paola Termine and Marilee Karl, *Agricultural Workers and Their Contribution to Sustainable Agriculture and Rural Development* (Geneva, FAO, ILO and International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations, 2007).

[18] Manoj Dias-Abey, "Justice on our fields: can 'alt-labour organizations improve migrant farm workers' conditions?", *Harvard Civil Rights-Civil Liberties Review*, vol. 53, No. 1 (2018).

[19] Julia Dolce, "43% da nova 'lista suja' do trabalho escravo é do agronegócio", *Brasil de Fato*, 12 April 2018.

[20] Norwegian Centre for Human Rights and Institute for Economic, Social and Cultural Rights, *Palm Oil Industry and Human Rights: A Case Study on Oil Palm Corporations in Central Kalimantan* (2015), p. 69.

[21] FIAN International, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations, and Right to Food Campaign in India and Paschim Banga Khet Majoor Samity, *A Life Without Dignity: The Price of Your Cup of Tea — Abuses and Violations of Human Rights in Tea Plantations in India* (Heidelberg, Germany, Global Network for the Right to Food and Nutrition, 2016).

and informal labour source of women and children supporting workers is often uncompensated and unprotected.

3. Informality

18. The term "informal economy" refers to "all economic activities by workers and economic units that are — in law or in practice — not covered or insufficiently covered by formal arrangements".[22] Informal workers, referenced above, are covered by fewer protections and face higher risks of poverty than those employed in the formal economy.[23] The agricultural sector features the highest level of informal employment, ranging from 60 per cent to 90 per cent globally.[24] Informal and casual work arrangements (for example, part-time, short-term or temporary contracts, on-call schedules, multi-layered subcontracts or franchises, and self-employment schemes, etc.) further hinder opportunities for workers to form unions and establish bargaining power (A/71/385, para. 23). In assessing these realities, average conditions can be misleading if not adjusted to account for variations in national circumstances.

4. Limited collective bargaining

19. Despite the high level of ratification of the ILO Convention on the Rights of Association and Combination of Agricultural Workers, 1921 (2011), agricultural workers face barriers to exercising their right to freedom of association. Consequently, collective bargaining in agriculture is quite limited. Agricultural workers lack opportunities to form trade unions owing to legal restrictions and hostile employers and because the labour force is geographically isolated, dispersed and often informal. Instead, agricultural workers rely on minimum legal protections and enforcement mechanisms that are weak or non-existent.

20. Anti-union sentiment and incidents of violence, including the harassment and dismissals of union officials and members, are prevalent throughout global supply chains and further discourage workers from exercising their right to the freedom of association. Without assembly and association rights, workers are hindered from collectively advocating for the working conditions necessary to realize their right to food.

5. Lack of social protection

21. Approximately 20 per cent of agricultural workers have access to basic social protections, which include access to social security, health care and workers' compensation.[25] Under international human rights law, States must establish social protections against the risk of poverty caused by sickness, disability, maternity leave, employment injury, unemployment, age, death of a family member and health-care or child-care costs.[26] Still, the vast majority of agricultural workers lack such basic protections. Realizing the right to food for agricultural workers requires a reversal of this trend and an expansion of social services to protect against general poverty and social exclusion. Again, these concerns must be appraised within the more specific context of national and even subnational circumstances to better understand the scope of challenges facing the agricultural workforce.

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[22] ILO, *Women and Men in the Informal Economy: A Statistical Picture*, 3rd ed. (Geneva, ILO, 2018).

[23] ILO, *Transitioning from the Informal to the Formal Economy*, ILC.103/V/1 (Geneva, 2014)

[24] ILO, *World Employment and Social Outlook*.

[25] FAO, "Understanding decent rural employment", 2015.

[26] Magdalena Sepúlveda and Carly Nyst, Ministry for Foreign Affairs of Finland, *The Human Rights Approach to Social Protection* (Oulu, Erweko Oy, 2012).

B. Working conditions and health hazards

22. Agricultural work is often excluded from national occupational safety and health regulations even though it is among the most dangerous sectors. An average of 170,000 agricultural workers are killed at work annually and agricultural workers are twice as likely to experience a fatal workplace accident compared with workers in other sectors. The palm oil, sugar cane, beef and dairy industries are considered to be among the most dangerous for workers. The risk of accidents is increased by fatigue, poorly designed tools, difficult terrain, exposure to extreme weather conditions and poor general health associated with working and living in remote communities.

23. Studies suggest that, owing to the high level of informality, an estimated 26,000 fatal accidents in the agricultural and fishing supply chains are unreported each year, along with other incidents of injury and occupational illness.[27] Even within the formal economy, States are not adequately enforcing minimum standards of occupational health and safety. In Guatemala, for instance, 96 per cent of workers stated that they were exposed to constant danger, 92 per cent stated that they lacked necessary protective equipment and only 3 per cent reported having access to a first aid kit.[28] Given that agricultural workers often lack social protections, including health care, workers' compensation, long-term disability insurance and survivors' benefits, losing a family member or income-generating employment to such accidents may propel agricultural workers and their families into deep poverty and prevent them from realizing their right to food.[29]

1. Pesticides

24. Agricultural workers are exposed to toxic pesticides via spray, drift or direct contact with treated crops or soil, from accidental spills or owing to inadequate personal protective equipment (A/HRC/34/48, para. 15). Annual acute pesticide poisoning affects nearly 1 in every 5,000 agricultural workers in developed countries. (ibid., para. 16). The United Nations Children's Fund (UNICEF) reported that exposure to pesticides is an especially grave health concern for pregnant and nursing workers, as well as their children.[30] Particularly in developed countries, exposure to dangerous machinery, pesticide residue and other agrochemicals can cause serious injury to workers and their families who live on or near worksites, as workers carry pesticide residues on their skin, clothing and shoes. Poor enforcement of labour regulations and lack of health and safety training can elevate exposure risks, especially in developing countries, which lack the infrastructure and resources to adequately regulate and monitor pesticides.

2. Water and sanitation

25. Agricultural workers frequently do not have access to safe drinking water in their workplaces, nor are they guaranteed access to sanitary facilities in violation of their human rights. For example, 60 per cent of all women working in sub-Saharan Africa and South Asia work in the agriculture sector and most lack access to facilities in the workplace that allow them to manage their sanitation and menstruation (A/HRC/33/49, para. 52).

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[27] See https://engagethechain.org/working-conditions-and-livelihoods.

[28] See www.albedrio.org/htm/otrosdocs/comunicados/InformeGrupoAnalisisTrabajoAgricola2014.pdf, input received in response to the call for submissions.

[29] Sue Longley, "Agricultural workers still struggle for their rights", Grain, 14 January 2010.

[30] United Nations Children's Fund (UNICEF), "Palm oil and children in Indonesia: exploring the sector's impact on children", October 2016, p. 7.

26. Lack of access to drinking water is particularly detrimental given the exposure of agricultural workers to prolonged heat and sun.[31] Heat stroke is the leading cause of work-related death in the United States, yet there is no universal requirement to establish water and shade breaks for agricultural workers. Without taking sufficient water or sun breaks, workers face heat-related illnesses such as nausea, dizziness, heat exhaustion, heat stroke, dehydration and even death. In the sugar cane industry, for example, cutters exposed to long hours in hot temperatures have experienced unusually high rates of deadly kidney failure.

III. Protection of agricultural workers under international law

27. Labour rights and human rights are interdependent, indivisible and mutually inclusive. The full enjoyment of human rights and labour rights for agricultural workers is a necessary precondition for the realization of the right to food. The Special Rapporteur reiterates the indivisibility of all human rights and echoes the statement made by the Special Rapporteur on the rights to freedom of peaceful assembly and of association: "Labour rights are human rights, and the ability to exercise those rights in the workplace is a prerequisite for workers to enjoy a broad range of other rights" (A/71/385, para. 17).

28. Agricultural workers are protected by all relevant human rights laws, principles and standards as rights holders and are also entitled to additional protections as members of a workforce. As mentioned above, the full enjoyment of human rights and labour rights for agricultural workers is a necessary precondition for the realization of the right to food.

A. International human rights law and standards

29. States bear the primary duty to respect, protect and promote the right to food of agricultural workers under international human rights law. Article 25 of the Universal Declaration of Human Rights is an umbrella principle obligating States to ensure the realization of the right to an adequate standard of living for all. This right is further articulated in article 11 of the International Covenant on Economic, Social and Cultural Rights, which provides that the right to an adequate standard of living includes the right to food, clothing and housing, as well as the continuous improvement of living conditions. In general comment No. 12 of the Committee on Economic, Social and Cultural Rights, it is explained that the right to food must not be construed in a narrow or restrictive sense, in accordance with the understanding that other human rights, including the right to an adequate standard of living, are inseparable from the right to food.

30. Member States of the Food and Agriculture Organization of the United Nations (FAO) have adopted the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* (2004). These guidelines provide non-binding guidance for States on operationalizing the right to food and promoting State action in the realm of a human rights approach to food security. With respect to workers, Guideline No. 8A elaborates on the already defined responsibility of States to ensure an adequate standard of living for rural and urban wage earners and their families. The Guideline also recommends that State-imposed working conditions be consistent with international human rights laws and relevant ILO conventions.

[31] FIAN International, *A Life Without Dignity*.

31. Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights also delegate to States the responsibility to establish a minimum wage that is a "living wage", namely, an income allowing workers to support themselves and their families. As previously mentioned, however, the majority of agricultural workers do not earn a living wage sufficient to ensure food security and an adequate standard of living. Further, article 9 of the International Covenant and general comment No. 19 of the Committee on Economic, Social and Cultural Rights define parameters of the right to social security and the extent of the obligations of States in fulfilling that right. As indicated in the present report, social protection is vitally important for agricultural workers, yet few such workers are included in social security systems.

32. Article 12 of the International Covenant on Economic, Social and Cultural Rights provides for the right to the highest attainable standard of health and obligates States to take measures to improve environmental and industrial hygiene. In general comment No. 14 (2000) on the right to health, the Committee embraced the notion that the right extends to the underlying determinants of health, including adequate food, potable water and safe working conditions. States also have an obligation to ensure a healthy and safe workplace, including in the agricultural sector, by preventing and reducing exposure to harmful substances and hazards.

33. Lastly, the General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9) have recognized the role of States in ensuring the rights to water and sanitation. In its general comment No. 15 (2002), the Committee clarified that the human right to water means universal access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, which includes sanitation. Even when working in remote locations, agricultural workers are entitled to and must be afforded water and sanitation facilities consistent with international standards.

B. International labour law

34. ILO is the only tripartite agency in the United Nations common system, comprised of representatives from governments, trade unions and employers' organizations, all of whom have voting rights. While there are eight core ILO conventions that address the fundamental rights of workers,[32] ILO adopted the Declaration on Fundamental Principles and Rights at Work in 1998, which consolidated four of the core conventions. States that decide to ratify this declaration, its underlying conventions or other ILO conventions must enact the agreement as national law. ILO recognizes the particular challenges facing rural workers, especially in respect of freedom of association for agricultural workers. The Right of Association (Agriculture) Convention, 1921 (No. 11) states that each Member of ILO that ratifies the Convention undertakes to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture.

35. Convention No. 11 was the first in a series of instruments developed and adopted by ILO to tackle the rights and decent work deficits of rural workers, again with a specific focus on rural workers. The others include: Minimum Wage Fixing

[32] Forced Labour Convention, 1930 (No. 29) and Protocol of 2014, Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), Right to Organize and Collective Bargaining Convention, 1949 (No. 98), Equal Remuneration Convention, 1951 (No. 100), Abolition of Forced Labour Convention, 1957 (No. 105), Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Minimum Age Convention, 1973 (No. 138), Worst Forms of Child Labour Convention, 1999 (No. 182).

Machinery (Agriculture) Convention, 1951 (No. 99) and recommendation No. 89; Plantations Convention, 1958 (No. 110) and recommendation No. 110; Protocol of 1982 to the Plantations Convention, 1958 (No. 110); Labour Inspection (Agriculture) Convention, 1969 (No. 129); Rural Workers' Organisations Convention, 1975 (No. 141) and recommendation No. 149; Indigenous and Tribal Peoples Convention, 1989 (No. 169) and recommendation No. 104 (1957); Safety and Health in Agriculture Convention, 2001 (No. 184) and recommendation No. 192; Work in Fishing Convention, 2007 (No. 188) and recommendation No. 199. ILO also has a series of guidance notes that cover the implementation of the above-listed issues.[33]

36. ILO conventions must operate in conjunction with human rights instruments in order to ensure the broadest protections for workers. For example, Safety and Health in Agriculture Convention, 2001 (No. 184) clearly excludes work associated with the processing of agricultural raw materials and the exploitation of forests and does not include all categories of agricultural workers. However, the human right to just and favourable conditions of work, including safe and healthy working conditions, encompasses all workers and activities.

C. Specially protected groups

1. Women

37. Women and girls play an essential role in providing food and nutrition security for their families and communities. Many countries are experiencing a "feminization of agriculture", as women are increasingly left to carry the full burden of agricultural work in addition to their load of unpaid care responsibilities at home (see A/HRC/26/39). Unfortunately, women working in the agricultural sector face heightened risks of exploitation and targeted discrimination that threaten to undermine their rights and those of their children. In an effort to curb gender-based discrimination against women, international human rights law has set forth specific legal protections that States should adopt to improve the conditions of women working in the agricultural sector.

38. Articles 11 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women address women's right to protection of health and to safety, including safeguards for reproduction, and call for special protections for pregnant women and mothers. In addition, the Committee on the Elimination of Discrimination against Women calls upon States to take appropriate measures to provide special protection to women during pregnancy. Such obligations clearly extend to minimizing risks of maternal exposure to hazards in the workplace.

39. Even States that have adopted the Convention on the Elimination of All Forms of Discrimination against Women, however, have not necessarily provided the requisite legal protections for women workers, particularly those who are pregnant or have recently had children, and who are exposed to dangerous working conditions and societal biases (see A/HRC/26/39). Owing to discriminatory hiring practices, for example, women often hide their pregnancies or are hired only for short-term contracts, as employers want to avoid paying maternity benefits (see A/71/282). According to information received, in India, for instance, female agricultural workers on tea plantations continue performing the same tasks until the eighth month of pregnancy, as their wages are reduced if they do not meet their quotas.[34]

[33] See the ILO Declaration on Fundamental Principles and Rights at Work (1998).

[34] See FIAN International's response to the Special Rapporteur questionnaire on agricultural workers, p. 3. All questionnaire responses are available at www.ohchr.org/EN/Issues/Food/Pages/AgriculturalWorkers.aspx.

40. Despite the Convention's call for reduced exposure to hazardous conditions in the workplace, women working in agriculture are frequently exposed to toxic chemical pesticides, many of which increase the risk of spontaneous abortions and premature births. These chemicals may also affect infant development through in utero exposure and breast milk. Studies indicate that breast milk may improve the resiliency of children who have been exposed to pesticide residues in vitro, yet owing to the remoteness of many plantations, in conjunction with long working hours and poor infrastructure, women workers are challenged to find time to breastfeed children.[35] Many women also lack access to nutritious food and an understanding of nutritional needs, both for themselves, and their children.[36] Private sector pressures further complicate efforts to educate women about the benefit of breastfeeding.

41. The recently adopted recommendation No. 34 of the Committee on the Elimination of Discrimination against Women contains specific interpretations in respect of the rights of rural women workers and a series of key recommendations.[37]

42. Ensuring that women have an opportunity to exercise collective bargaining rights may significantly resolve these issues. A project of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations undertaken in 16 African countries, for example, successfully demonstrated that when women are given the opportunity to participate in unions and to engage with employers and Government stakeholders, they can effectively advocate for maternity rights and protections from violence and sexual harassment at work.[38]

2. Children

43. According to the latest ILO estimates, 71 per cent of child labour (involving 108 million children) occurs in the broader agricultural sector, which includes farming, fisheries, aquaculture, livestock and forestry.[39] Due to insufficient risk prevention and control measures as well as their physical and mental development stages, children are particularly vulnerable to the dangers of agricultural work. Repetitive heavy lifting, for example, can cause permanent spine or limb damage, and exposure to pesticides can cause skin, eye, respiratory and neurological issues. Children are also more susceptible to the effects of hot temperatures and long hours, especially without regular access to adequate food and water.

44. Child labour in itself is a human rights violation, but it is also a symptom and a self-reinforcing cause of poverty. Children's right to food can be undermined through exploitative working conditions for parents, especially mothers, such as in relation to low wages, long working hours, lack of maternity protection and breastfeeding support, as well as poor water, sanitation and hygiene standards in workers' communities.

45. Many existing policies often fail to include targeted protections for children, as they are an informal and often invisible component of the workforce. The international community, however, has established specific protections for children through human rights instruments and labour laws. The Convention on the Rights of the Child contains several provisions that are particularly relevant for children working in the agricultural sector, as it recognizes "the right of every child to a

[35] See International Baby Food Action Network response to questionnaire.

[36] UNICEF, "Palm oil and children in Indonesia", p. 7.

[37] See Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016) on the rights of rural women.

[38] Celia Mather, "From Lusaka to Accra: more women, doing more, building our unions — achievements of the IUF Africa Regional Women's Project, 2007–2011", May 2012.

[39] ILO, *Global Estimates of Child Labour: Results and Trends, 2012–2016* (Geneva, 2017), p. 12.

standard of living adequate for the child's physical, mental, spiritual, moral and social development". States are tasked with assisting parents to execute those rights by providing "material assistance and support programmes particularly with regard to nutrition, clothing and housing" (art. 27).

46. Article 6 of the Convention on the Rights of the Child also includes provisions to support healthy childhood development. Article 24 (2) (c) reiterates the link between the rights to food and water and the right to the highest attainable standard of health. States must protect children against disease and malnutrition through the provision of adequate, nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution. Further, article 32 assigns the State the responsibility to provide protection for children from economic exploitation.

47. ILO also developed the Minimum Age Convention, 1973 (No. 138), which reflects the recognition that, while work performed by children younger than 18 may jeopardize health, safety and morals, light work that does not harm health or schoolwork is allowed for children ages 13 to 15. The Worst Forms of Child Labour Convention, 1999 (No. 182) of ILO further requires ratifying countries to take immediate action to prohibit and eliminate the worst forms of child labour, including all forms of slavery, commercial sexual exploitation of children and any work that by its nature is harmful to the health, safety or morals of children, and challenges all countries to live up to those standards.

48. Despite the existence of these international standards, children continue to experience food insecurity resulting directly from conditions imposed on them as workers or as a result of the hardships facing family members who work in the agricultural sector. In 2015, for example, the United States Department of Labor reported that there were more than 2 million child labourers in Côte d'Ivoire and Ghana employed in cocoa production. As previously discussed, children of agricultural workers earning quota-based wages may also informally engage in labour in order to help support their families. In rural areas, where seasonal work dictates the availability of adult labourers, children may drop out of school to help their parents work on third-party or family-owned farms or plantations or to pursue other income-generating activities.

49. A lack of maternity protections and breastfeeding support for working mothers, as well as poor water, sanitation and hygiene standards in workers' communities, further undermine the health and well-being of children. On tea plantations in Assam, India, for example, children of women agricultural workers often depend on food rations provided by tea gardens or government schemes, which are insufficient to cover the nutritional needs of workers' families, leading to high incidents of malnutrition and anaemia among children.[40]

3. Plantation workers

50. Plantation workers perform some of the most physically demanding labour, generally cultivating monocultures that are sold for commercial purposes. Many plantations embrace exploitative conditions endemic to colonial agricultural systems. Workers, most of whom are employed informally, live with their families on the plantations and rely on employers for basic services, including health care and education. While the lack of formal employment limits the availability of information about such workers, evidence suggests that there is an increased use of migrant and outsourced workers, particularly for seasonal work.[41] The rate of informal and

[40] See UNICEF response to questionnaire.

[41] FIAN International's response to the Special Rapporteur questionnaire on agricultural workers.

seasonal employment on plantations is disproportionately high among women, who face an increased risk of discrimination and harassment in the workplace. The lack of formal employment may also result in exclusion from those statutory benefits that are available only to formal employees, such as access to employer-sponsored health care and maternity protection.[42]

51. ILO has detailed regulatory guidance on the rights of plantation workers. The Plantations Convention, 1958 (No. 110) and recommendation No. 110 (1958) and the Protocol of 1982 to the Plantations Convention, 1958 (No. 110) provide standards for employment contracts, minimum wages, holidays with pay, weekly rest, maternity protection, workmen's compensation, the right to organize and collective bargaining, labour inspection, housing and medical care for plantation workers. However, only 12 States have ratified those documents, and plantation workers continue to face persistent violations of their labour and human rights.

52. States have also been complicit in the exploitation of and violence against plantation workers. In 2007, for example, Chiquita Brands International, a United States-based corporation, admitted to paying $1.7 million to Colombia's paramilitary group, the United Self-Defence Forces of Colombia, to kill or intimidate union members seeking to promote collective bargaining among Chiquita workers on banana plantations. A more recent study from 2016 alleged that Uzbekistan sponsored the use of forced labour on cotton plantations throughout its territory.[43]

4. Migrant and undocumented workers

53. ILO estimates that there are 150.3 million migrant workers: 112.3 million of these workers are in high-income countries in the Global North and many are irregular or undocumented.[44] Developed countries and international organizations, such as the World Bank, encourage the migration of agricultural workers from the developing countries as a mode of development, although evidence indicates that bilateral arrangements and protection mechanisms are not effective.

54. In fact, migrant workers in all regions tend to face more severe economic exploitation and social exclusion than other agricultural workers, as they lack the fundamental protections provided to citizens. Many migrants experience conditions of forced and unpaid labour, restricted freedom of movement and limited access to justice. Employers are also more likely to consider migrant workers as a disposable, low-wage workforce, without rights to bargain collectively for improved wages and working conditions (see A/71/385).

55. Under international human rights law, the International Convention on the Rights of All Migrant Workers and Members of Their Families and other instruments contain provisions that require States to provide adequate protection, information and remedies in the context of safe working conditions. Nevertheless, evidence indicates that States often fall short of fulfilling those duties. In Europe, for example, undocumented migrant workers are often denied, or receive restricted, residence or work permits, leading workers to be subjected to irregular recruitment procedures.[45]

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[42] ILO, *Meeting of Experts on Violence against Women and Men in the World of Work: Background Paper for Discussion at the Meeting of Experts on Violence against Women and Men in the World of Work* (Geneva, 2016).

[43] Radio Free Europe/Radio Liberty, "Forced cotton-picking earns Uzbekistan shameful spot in 'slavery index'", 31 May 2016.

[44] ILO, *ILO Global Estimates on Migrant Workers: Results and Methodology* (Geneva, 2015). The term "irregular" refers to the status of migrants who enter or stay in a country without correct legal authorization.

[45] See submission from Via Campesina in Europe, available at www.eurovia.org/wp-content/uploads/2017/04/ECVC-2017-04-Document-on-Migration-and-Rural-Labour-EN.pdf.

56. In southern Italy, exploitation of migrant workers connected to *caporalato*, a gangmaster system in which migrant workers are illegally recruited and subjected to slavery-like conditions, has gained recent attention.[46] Responding to pressure from civil society, the Government of Italy has enacted a law against *caporalato* (Law No. 199/2016), which imposes sanctions on both the gangmasters who "trade" migrant workers and those who benefit from the labour. This law still falls short of ensuring the rights and protections of migrant workers.

57. In the United States, where many farmworkers are undocumented, there is no effective government remedy for most human rights violations.[47] Undocumented workers fear coming forward, as the threat of deportation surpasses concerns about fundamental rights. Yet, even with legal status, many workers participating in temporary or seasonal migration lack the opportunity to exercise their rights to assembly and association and are dependent upon employers to protect and promote their basic rights.[48]

58. Seasonal migration schemes promoted by the International Organization for Migration, and used in Southern Europe, further expose migrant workers to unfair working conditions and potential rights violations.[49] For example, in order to restrict the mobility of migrant workers and prevent permanent migration to Spain, Andalusian employers give work preference to Moroccan women who have dependent children, as their status as mothers is considered a guarantee that they will return home after each season.[50]

59. There is a need for greater attention to patterns of trafficking and forced labour of migrant workers. The link between exploitation and migration is often overlooked or is considered integral to industry and thus culturally accepted and politically ignored. For example, the dependence of the sugar industry in the Dominican Republic on illegally imported labour from Haiti, including child labourers and migrants entering the country through the Barahona region of the Dominican Republic, is widely known yet allowed to continue.[51]

[46] See Medici per i Diritti Umani, "I dannati della terra: rapporto sulle condizioni di vita e di lavoro dei braccianti stranieri nella Piana di Gioia Tauro", public report, available at www.mediciperidirittiumani.org/dannati-della-terra/.

[47] Tamar Haspel, "Illegal immigrants help fuel U.S. farms. Does affordable produce depend on them?", *Washington Post*, 17 March 2017.

[48] International Federation for Human Rights, *Importing Workers, Exporting Strawberries: Working Conditions on Strawberry Farms in the Huelva Province* (Spain), No. 578a (January 2012); Susan G. Mannon and others, "Keeping them in their place: migrant women workers in Spain's strawberry industry", *International Journal of Sociology of Agriculture and Food*, vol. 19, No. 1 (September 2011).

[49] For more information on seasonal migration schemes, see, for example, Sara Dehm, "Framing international migration", *London Review of International Law*, vol. 3, No. 1 (March 2015). See also Jesse Jon Gerom and Manoha Sharma, *Maximizing the Development Impacts from Temporary Migration: Recommendations for Australia's Seasonal Work Programme* (Washington, D.C., World Bank, 2017) (identifying additional opportunities for Australia to improve its seasonal work arrangement with neighbouring Pacific islands).

[50] Emmanuelle Hellio, "'We do not have women in boxes': channelling seasonal mobility of female farmworkers between Morocco and Andalusia", in Jörg Gertel and Sarah Ruth Sippel, eds., *Seasonal Workers in Mediterranean Agriculture: The Social Costs of Eating Fresh* (New York, Routledge, 2014).

[51] Glenn T. Smucker and Gerald F. Murray, *The Uses of Children: A Study of Trafficking in Haitian Children* (Port-au-Prince, United States Agency for International Development/Haiti Mission, 2004).

5. Other specifically protected groups

60. Indigenous peoples, as well as peasants and other rural workers, are also afforded specific protections under international human rights and labour law. The International Covenant on Civil and Political Rights, the United Nations Declaration on the Rights of Indigenous Peoples and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of ILO address the rights of indigenous peoples, and the draft Declaration on the Rights of Peasants and other People Working in Rural Areas provide further protection to supplement other international instruments emphasizing peasants. These groups are among the diverse agricultural workforce that faces challenges in fulfilling the right to food for reasons discussed in the present report.

IV. The State and the protection of the right to food of agricultural workers

A. Regulation

61. State regulatory responsibility includes adopting laws to protect the rights of workers and adopting corrective measures when existing laws have an adverse impact on those rights. In addition to complying with minimum working standards primarily set forth in ILO instruments, States must better exercise their duty to protect and promote the rights of agricultural workers as a precondition to securing the right to food. This can be achieved through national legislation, policies, and programmes, that are consistent with international human rights laws and labour conventions or otherwise endorse the underlying principles.

62. It is the duty, as mentioned above, of the State to ensure that a minimum wage is set in legislation and that compliance with this requirement is adequately monitored. That minimum wage should be, at the least, a "living wage".

63. The potential for inconsistent or contrary national legislation to undermine international standards is apparent in the context of women. Despite specific protections applicable to women working in agriculture, a lack of local and national protections continues to expose women to rights violations in the workplace. For example, while international law provides some protections for working mothers regardless of the sector, in francophone Africa, including Burkina Faso, Gabon and the Niger, most women agricultural workers are not covered by the national legislation that provides maternity protection at work.[52]

64. A lack of policies and programmes to combat cultural biases and violence against women in the workplace is also preventing women from the full enjoyment of their rights. Women are often without suitable protective equipment, and gender-based violence at work is pervasive in the agricultural sector. Women workers, particularly those without permanent legal status, are less likely to seek protections by joining unions or to report incidents of sexual abuse or violence.[53]

65. Nevertheless, there is evidence to confirm that national efforts can have a meaningful impact on the lives and rights of workers. In Costa Rica, for example, the national strategic plan to eradicate child labour has contributed to a decrease in child labour since 2011. Costa Rica also attributes this trend to the efficient coordination

[52] Alison Linnecar and others, *Formula for Disaster: Weighing the Impact of Formula Feeding vs Breastfeeding on the Environment* (International Baby Food Action Network and Breastfeeding Promotion-Asia Network of India, 2014).

[53] Human Rights Watch, *Cultivating Fear: The Vulnerability of Immigrant Farmworkers in the US to Sexual Violence and Sexual Harassment* (2012), p. 84.

of efforts by a series of relevant ministries and other actors, including trade unions, and non-governmental organizations.[54]

B. Monitoring compliance regarding working conditions

66. The obligation of States to ensure free and fair labour practices includes the development of labour policies, laws and regulations, as well as inspection and enforcement mechanisms, in consultation with workers, employers, and their organizations.

67. National labour legislation is only as effective as the enforcement mechanisms that States employ to ensure compliance with minimum standards. Labour Inspection (Agriculture) Convention, 1969 (No. 129) of ILO requires Governments to establish an inspection system that includes a requirement to notify competent authorities of any gaps in protection and to make proposals for bridging those gaps. States are lagging behind with respect to the implementation of inspection schemes in the agricultural sector. Convention No. 129, for example, has been ratified by significantly fewer States than Labour Inspection Convention, 1947 (No. 81).

68. In recent years, States have developed laws to monitor child labour and human trafficking in supply chains. For instance, the California Transparency in Supply Chains Act requires companies of a certain size to report on their specific actions to eradicate slavery and human trafficking in their supply chain. Similarly, the Modern Slavery Act 2015 of the United Kingdom requires larger companies to publish a slavery and human trafficking statement for each financial year. Further, producer countries, such as Afghanistan, India and Nepal, have their own local and national laws that prohibit child labour and promote victim rehabilitation efforts.

69. Labour inspectorates often lack the resources to effectively monitor widely dispersed and seasonal worksites, especially in rural areas, and to ensure the protections of a diverse group of workers.[55] In the United States, fewer than 900 investigators are employed to monitor compliance with federal labour laws for more than 150 million workers across the United States — a ratio of approximately one investigator for every 170,000 workers. Without adequate resources to monitor worksites, States are failing to provide workers an essential safeguard.

C. Effective remedies for dispute settlement

70. States are obligated under international law to establish accessible and effective domestic complaint mechanisms that can promptly investigate allegations of abuses of rights that have been unduly restricted or violated. Workers whose rights have been violated have the right to obtain redress, including adequate compensation and sanctions against the employer.

71. Effective remedies should be available from a variety of sources, including judicial and non-judicial and administrative institutions, such as courts, ombudsperson's offices and national human rights institutions. Some States permit workers to seek corrected pay or compensation from an employer before seeking judicial involvement. Other countries provide for workers to seek assistance from an ombudsperson's office or to claim damages in civil proceedings.[56]

[54] See Costa Rica's response to questionnaire.

[55] ILO, *General Survey of the Reports Concerning the Labour Inspection Conventions and Recommendations*, ILC.95/III/1B (Geneva, 2006), para. 13.

[56] See, for example, Costa Rica, Croatia, Greece, and Malta's responses to the Special Rapporteur's questionnaire.

72. Even when States implement mechanisms for resolving disputes, agricultural workers often lack access to effective remedies when their rights are violated. This is due to structural barriers, lack of information, or financial burden of the dispute mechanisms. In India, for example, only Chief Inspectors may file complaints on behalf of tea plantation workers.[57] Neither the plantation worker nor the union may initiate a legal proceeding against a plantation manager who has violated a worker's rights. In Burkina Faso, agricultural workers may appeal rights violations to the National Commission of Human Rights, but there is no State-sponsored mechanism to ensure that workers are aware of and understand the scope of those rights.[58]

73. Informal employment arrangements among agricultural workers further hinder their ability to access available remedies for rights violations. Without employment contracts, informal workers cannot readily prove their employment status and are therefore unable to establish that an employer owed and subsequently breached a fiduciary duty. State inspectorates and authorities may be less likely to investigate potential violations within the informal economy, and workers may hesitate to report violations in order to avoid retaliation by employers or participation in proceedings that interfere with income-generating activities.

74. Irregular and undocumented migrant workers face additional impediments to remedies. Despite having formal access to inspectors, workers are reluctant to report violations for fear of deportation. In addition, migrants tend to lack legal rights or access to temporary accommodations that will allow them to remain in the country during legal proceedings, thus deterring them from reporting violations.

V. Private sector and other actors

75. Corporations participating in global supply chains have a responsibility to respect the right to food of agricultural workers and to not contribute, directly or indirectly, to human rights abuses. Corporations must uphold international labour and human rights standards and ensure that contracting enterprises along the supply chain comply with those standards, even when existing labour laws fail to provide sufficient protections or impose liability. Corporations must also ensure access to appropriate remedies when rights violations occur. These actions are not a substitute for the enforcement of protective regulatory standards by the State, but are nevertheless necessary to the protection and promotion of workers' right to food.

A. Role of the State and extraterritorial obligations

76. In recent years, there have been various attempts to regulate the impacts of business activities on human rights. These efforts have focused on both national activities and those outside the territorial boundaries of the State in which the business or affiliate is domiciled. The scope of a State's human rights obligations has evolved to include authority to exercise jurisdiction over certain activities originating from that State but impacting other States. Thus, in principle, States have the duty to regulate, monitor and investigate the activities of corporations domiciled in their own State and may hold those corporations accountable for human rights violations under national law or through intergovernmental instruments and voluntary codes of conduct. This is particularly relevant for agricultural workers who participate in global supply chains where the jurisdictional lines are often blurred.

[57] FIAN International's response to the Special Rapporteur questionnaire on agricultural workers.
[58] Ibid.

77. Notably, the Guiding Principles on Business and Human Rights (2011) underlined that States "should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations" and clarified the responsibility of transnational corporations and other business enterprises to respect human rights. However, the Guiding Principles are voluntary in nature and do not provide for adequate access to judicial remedies. Other relevant standards include general comment No. 16 (2013) of the Committee on the Rights of the Child and general comment No. 24 (2017) of the Committee on Economic, Social and Cultural Rights, both of which include clearer and more progressive standards on corporate accountability. The Special Rapporteur recognizes that binding regulations are necessary to more effectively hold corporations liable and States accountable when the rights of workers are violated.

78. Currently, it remains a challenge to hold transnational corporations responsible for extraterritorial actions, including those of contracted suppliers. In the United States case *John Doe I and others v. Nestlé, USA and others*, for example, the presiding court did not find sufficient evidence that the defendant companies, Nestlé, Archer Daniels Midland, and Cargill, had aided and abetted child slave labour on the Côte d'Ivoire farms that supplied the companies' cacao beans.[59] Rather, the court's conclusion endorsed the perspective that employing cheap labour is merely a symptom of conducting business within a global supply chain and that the companies had not explicitly directed the use of child labour in violation of any law.

B. Role of corporate social responsibility

79. Some enterprises within agricultural supply chains have adopted corporate social responsibility to claim a commitment to sustainable practices and health and safety standards for workers, but whether they are making serious efforts with regard to implementation requires investigation and validation. In conjunction with social auditing initiatives, corporate social responsibility "comprises a multimillion-dollar industry created by global businesses to monitor compliance with industry human rights standards across supply chains and at the enterprise level" (A/71/385, para. 91). Companies advertise corporate social responsibility as a voluntary decision to exceed the legal requirements of the country in which they operate in order to integrate long-term economic, social and environmental interests into commercial operations. Yet, corporate social responsibility is often more preoccupied with promoting a company's brand image than promoting the rights of workers and may be dangerously misconstrued as a replacement for legally binding regulations and robust enforcement by States.

80. Corporate social responsibility does not create cognizable rights for workers or enforcement mechanisms when rights are violated (see A/71/385). Rather, initiatives often fall short of achieving meaningful changes because of the use of voluntary, non-binding standards, lack of consultation with workers and communities and ambivalence when it comes to implementation. The Roundtable on Sustainable Palm Oil, for example, is lauded for its partnered governance structure and multi-stakeholder approach to integrating environmentally sustainable and socially responsible practices into the palm oil industry.[60] Yet, notably and unacceptably

[59] United States Courts of Appeals for the Ninth Circuit, *John Doe I and others v. Nestlé, USA and others*, Case No. 10-56739, Order and Opinion, 2 December 2013.

[60] Gary D. Paoili and others, "Corporate social responsibility, oil palm and the roundtable on sustainable palm oil: translating boardroom philosophy into conservation action on the ground", *Tropical Conservation Science*, vol. 3, No. 4 (2010).

absent from the list of participating groups are the agricultural workers who are most affected by those practices.

81. Corporate social responsibility models also lack effective auditing mechanisms that would allow for objective third parties to evaluate a company's progress in meeting its goals. While querying the effectiveness of initiatives among multinational tobacco companies, Human Rights Watch found that most companies do not publicly disclose sufficient information to allow for third-party stakeholders to objectively and credibly assess whether a company is exercising due diligence in monitoring and addressing human rights problems within the supply chain.[61]

C. Fair Food Program

82. Agricultural workers are increasingly making their own demands with respect to the operations of corporate supply chains. The Fair Food Program in the United States is a leading example of an alternative model to traditional corporate social responsibility, one that promotes worker-driven social responsibility.[62] Unlike traditional examples, the Fair Food Program ensures that agricultural workers have knowledge of their rights and protections; features reporting mechanisms through which workers may document complaints and seek remedies; conducts third-party audits of agricultural workers; and relies on market-based enforcement to ensure that participating suppliers honour their commitment to fair labour standards. Thus far, the Fair Food Program has successfully empowered participating agricultural workers to advocate on behalf of their own rights, which is essential as the private sector often fails to act on its own.

D. Role of consumers

83. Although it is the primary obligation of States to ensure the realization of the rights of workers, efforts to improve the protections for agricultural workers should take into account the potentially constructive role of consumers. Just as consumer demand for lower prices may perpetuate the violations of labour standards and the ability of workers to earn a living wage, consumers have the ability to use market demands and purchasing power to promote worker protections.[63] A recent Oxfam report, for example, demonstrated how consumer demand for cheap food increases the likelihood that suppliers in supermarket value chains will deprive workers of basic human rights in order to turn a profit.[64]

84. Consumers have also shown a preference for production processes that minimize negative social and ecological impacts and have called for increased transparency. In 2016, the Chief Executive Officer-led Consumer Goods Forum responded to consumer demands for improved working conditions by passing the Social Resolution on Forced Labour, a commitment to fighting forced labour through global supply chains.[65] Emerging fair trade criteria, food justice labelling, and procurement initiatives also demonstrate that consumers are willing to pay higher

[61] Human Rights Watch, *A Bitter Harvest: Child Labour and Human Rights Abuses on Tobacco Farms in Zimbabwe* (2018).

[62] Fair Food Program, "Fair food 2017 annual report", 2018.

[63] Business Humanitarian Forum, "Workshop report: company responsibilities in countries with human rights challenges", February 2011.

[64] Oxfam, *Ripe for Change: Ending Human Suffering in Supermarket Supply Chains* (Oxford, 2018), p. 12.

[65] Consumer Goods Forum, "Fighting forced labour: a rallying call from the consumer goods industry", 14 January 2016.

prices to improve labour conditions in supply chains. Unfortunately, without mandatory requirements to disclose all production practices, including those that are exploitative or otherwise negative, voluntary labels serve more as an opportunity for companies to selectively highlight positive aspects of the value chain than to respond to consumer demands for increased accountability.[66]

85. Perhaps more effective in influencing rights and protections for workers are advocacy campaigns targeting a company's reputation. A company's reputation in a market is a critical piece of its social capital and it ensures a steady flow of investments, a stable customer base and access to other resources and support. Thus, a company's efforts to avoid damage to the brand equity of a business, or "reputational risk", have given rise to codes of labour practice among companies participating in global supply chains. Research on women farmworkers in South Africa, for example, found that civil society activists may leverage threats to expose worker exploitation in order to pressure companies to address workers' rights, particularly those of women and migrant workers.[67]

86. At the same time, States cannot rely exclusively on consumers to expose rights violations or ensure protections of agricultural workers in the supply chain. Instead, States should make a concerted effort to implement measures to ensure that consumers have sufficient opportunity to make informed decisions and to participate in promoting policies that are friendly to human rights within supply chains.

E. Role of international organizations

87. International organizations, including ILO, FAO, UNICEF and the Organization for Economic Cooperation and Development (OECD), have recently focused on increasing visibility into supply chains with the aim of guiding the private sector on how to implement and maintain responsible work practices. In 2016, for example, ILO held the 105th session of the International Labour Conference, a global summit of governments, employers and trade unions, which addressed decent work in global supply chains, culminating in a series of adopted conclusions.[68] These initiatives have garnered private sector interest, but tangible changes in behaviours are yet to be observed.

VI. Conclusion and recommendations

88. **First, the present report presents global issues undermining the full realization of the right to food of agricultural workers. It is imperative to start looking at the issues of agricultural workers, including how their human rights are intrinsically related, from a holistic perspective. It is also important to appreciate that global averages do not account for the variations in material circumstances and living standards that exist among, and within, countries. Therefore, there is a need to supplement global statistics with national, subnational, and possibly regional, measurements.**

89. **Second, it is important to look beyond formalism in appraising global food security and the universal right to food. Formal adoption of international norms**

[66] Tomaso Ferrando, "Certification schemes and labelling as corporate governance: the value of silence", in Grietje Baars and André Spicer, eds., *The Corporation: A Critical Multi-Disciplinary Handbook* (Cambridge University Press, 2017), pp. 372–382.

[67] Stephanie Barrientos, "Corporate purchasing practices in global production networks: a socially contested terrain", *Geoforum*, vol. 44 (January 2013).

[68] ILO, "Fourth item on the agenda: decent work in global supply chains", document ILC.105/PR14-1, 2016.

may not guarantee positive changes on the ground. Rather, norms are often adopted for public relations and reputational reasons and without clear direction for implementation. Nevertheless, constitutional ratification and national legislation may better enable civil society to monitor compliance with underlying norms and principles.

90. Lastly, various international organizations, including FAO, ILO, the Office of the High Commissioner for Human Rights, UNICEF and the World Health Organization, as well as the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations, could, within their specific mandates, improve synergies and coordination to promote the conditions of agricultural workers. Their role in the provision of food security is vital. Therefore, the Special Rapporteur recommends that the above-mentioned actors cooperate to expose problems and provide proposed solutions to States as soon as possible.

1. Major recommendations with specific actions proposed to international organizations:

91. Establish a fact-finding study group including ILO, FAO, relevant civil society organizations and corporate representation to examine whether States are implementing various categories of norms relevant to agricultural workers. The group could present findings to the World Committee on Food Security, the main international platform where policy recommendations and guidance on the status of agricultural workers globally are discussed and endorsed. Particular attention should be paid to the implementation of ratified norms. This group could also consider requesting an advisory opinion from the International Court of Justice on the rights of agricultural workers under international law.

92. International organizations, including ILO, FAO, UNICEF and OECD, should focus on increasing visibility into supply chains and guiding the private sector on how to implement and maintain responsible work practices.

2. States should:

93. Improve human rights protection for informal agricultural workers, especially those in presently vulnerable categories, including: women and girls, members of indigenous groups, peasants, certain minorities suffering discrimination, those living in remote and backward areas, and migratory workers without normal citizenship rights and rule of law protection.

94. Implement binding rules introducing due diligence mechanisms to allow the affected individuals and communities to hold accountable all supply chain enterprises that profit from the human rights abuses.

95. Ratify all ILO conventions relevant to workers in the agricultural and food production sector and ensure their effective implementation.

96. To improve working conditions of agricultural workers, implement the recommendations set out in the earlier report of the Special Rapporteur (A/HRC/34/48) on pesticides and their impact on the right to food. The Special Rapporteur further endorses the recent report entitled "Toward principles on human rights and occupational exposures to hazardous substances" of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Baskut Tuncak, to be presented at the thirty-ninth regular session of the Human Rights Council, in September 2018.

97. **Set a minimum wage corresponding to a "living wage" for all workers, regardless of the work sector, as required by international human rights standards, and ban piece rate schemes.**

98. **Implement social protection schemes that strengthen the incomes of families throughout the year.**

99. **Guarantee the right to establish and encourage the free functioning of trade unions that facilitate dialogue and cooperation among Governments, employers and workers in the formulation of labour standards and policies, consistent with the principle of tripartism.**

100. **Devote appropriate resources for an effective functioning of labour inspectorates in agriculture, in accordance with the requirements of the ILO Labour Inspection Convention, 1947 (No. 81).**

101. **Provide safe channels for undocumented migrant workers so that they can anonymously report violations without fear of retribution, respecting the principle of non-refoulement and ensuring that migrants have access to the regular labour market in the host country, in cooperation with United Nations agencies and programmes and international organizations.**

102. **Issue more non-restrictive residential and work permits to seasonal workers and condemn seasonal migration schemes that expel workers from countries after the season lapses.**

103. **Collect reliable data on child labour, adopt policies to respond to the root causes of children entering the labour market, and withdraw those children currently working in the worst forms of labour from the workforce.**

104. **Enact, implement and enforce national legislation that addresses structural violence and discrimination against women in the agricultural sector.**

105. **Inform workers of underlying rights and available remedies in case of human rights violation and provide pertinent legal aid.**

106. **Ensure that consumers have the opportunity to make informed decisions about rights violations in supply chains through the use of mandatory labelling systems and, further, to participate in defining relevant policies.**

107. **Adopt and implement upon adoption the draft Declaration on the Rights of Peasants and other People Working in Rural Areas.**

108. **Implement the rules of the Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food in the Context of National Food Security in relation to agricultural workers.**

109. **Ensure that investments in agriculture and food systems are in line with the Principles for Responsible Investment in Agriculture and Food Systems.**

110. **Fulfil their commitments with respect to the Sustainable Development Goals in order to ensure the zero hunger goal as well as the decent work goal for all by 2030.**

3. **Private actors of the agribusiness sector should:**

111. **Ensure that wages and working conditions for agricultural workers improve, rather than deteriorate, as global supply chains continue to expand.**